

INFORMATION BULLETIN #32

SALES TAX

DECEMBER, 2002

(Replaces Bulletin #32, dated August 1997)

DISCLAIMER: Information bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide the information that is consistent with the appropriate statutes, rules and court decisions. Any information that is not consistent with the law, rules or court decisions is not binding on either the department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUBJECT: Public School Corporation Purchases and Sales

REFERENCES: IC 6-2.5-5-22; IC 6-2.5-5-23; IC 6-2.5-5-25; IC 6-2.5-5-26; 45 IAC 2.2-5-46; 45 IAC 2.2-5-47; 45 IAC 2.2-5-55; 45 IAC 2.2-5-58

INTRODUCTION

This Information Bulletin sets out guidelines and instructions to be followed by public school corporations, (grades one (1) through twelve (12)), and extra curricular account treasurers in determining the applicability of sales tax in acquisitions by the school corporation and the requirements to collect sales tax when selling items.

Registration of Public School Corporations

Indiana public school corporations must register with the Indiana Department of Revenue as not-for-profit organizations. Application for not-for-profit registration must be made on Form NFP20A, **Application to File as a Not-for Profit Organization**, and may be obtained by contacting the Indiana Department of Revenue, Compliance Division. The registration number assigned must be included on Form ST-105, **General Sales Tax Exemption Certificate**, submitted to a vendor to validate an exemption from

sales tax collection on qualified purchases by the school corporation. The exemption number can only be used for the purpose of making exempt purchases, and may not be used as authority for making sales and collecting sales tax.

If the school corporation in its ordinary course of business acquires tangible personal property for resale and transfers that property to others for consideration, the school corporation must register as a retail merchant and obtain a Registered Retail Merchant Certificate (RRMC) from the Department.

Sales of School Meals

Sales of school meals are exempt from the sales tax if the seller is a school corporation containing students in any grade one (1) through twelve (12), the purchaser is a student or school employee, and the school furnishes the food on its premises. This exemption also extends to the sale of school meals prepared by a private caterer provided the meals are served on the school's premises, and the caterer is merely acting as an agent for the school.

Sales of school meals through a vending machine will be granted exemption **only** in the following instances:

- (1) The vending machine is located in the school cafeteria or lunch room; and
- (2) The food is being sold to students or school employees who are purchasing such food in lieu of purchasing the prepared meals furnished by the school.

All other sales of food through vending machines are subject to sales tax.

Acquisition of Tangible Personal Property

Purchases of tangible personal property are exempt from the sales tax if the property is acquired for incorporation into a school building which is being constructed by a school corporation.

Purchases of tangible personal property are exempt from the sales tax if it is acquired by a school corporation and the property is used to carry on and further the educational purposes of the school corporation. The purchase must be invoiced to and paid for by the school corporation.

School organizations that are under the parental control of the school corporation and whose funds are accounted for through the extra curricular activities account may use the exemption number of the school corporation to make qualified purchases exempt from sales tax. Such purchases may be made **only** where payment is made by an extra curricular activities check, **and** the property purchased is to be used by the organization for purposes other than in connection with social activities.

School organizations may not make purchases exempt from sales tax when such purchases are for the personal ownership or use of individual members of the organization, or if such purchases will be used in connection with social activities of the organization such as parties, dances, picnics, etc., conducted by such organizations.

Registration of Extra Curricular Activities Account as Registered Retail Merchants

Each extra curricular account treasurer must obtain a Registered Retail Merchant Certificate (RRMC) if taxable sales are made by the organization. It is the responsibility of the extra curricular account treasurer to account for the collection of sales tax in connection with all taxable sales of any organization whose funds are accounted for by the particular treasurer.

In order to account for the sales tax, it is necessary for the organization to obtain a registered retail merchant certificate in the name of the extra curricular activities account. Application for an Indiana Registered Retail Merchants Certificate must be made on form BT-1, and accompanied with a remittance of twenty-five dollars (\$25.00). This form may be obtained by contacting the Indiana Department of Revenue at www.in.gov/dor, Tax Forms Ordering Line at 317-615-2581, Taxpayer Services Division, or any district office of the Department.

Sales Subject to Sales Tax: (Except School Bookstores)

Individual school organizations or functions which conduct selling activities need not collect sales tax if the funds are to be used by the organization in furtherance of the purpose of which it was organized, **and** the organization makes such sales for a period of fewer than thirty (30) days during a calendar year.

This exemption excludes most activities from the responsibility to collect sales tax on the various fund raising and student activities conducted during the school year. It usually eliminates the necessity for collection of sales tax on athletic event concession sales, as long as the concessions are sold directly by the school organization.

Sales of high school yearbooks and annuals are exempt as long as the yearbooks are produced and sold as a student activity or class project, and the commercial publisher's activities are limited to furnishing necessary artwork, printing, and binding.

Sales of tangible personal property on an ongoing basis **are** subject to collection of sales tax. An example of this would be continued sales of tangible personal property to raise money to buy band uniforms.

Sales by School Bookstores

The sales tax shall not apply to sales by bookstores of tangible personal property intended primarily for the educational purpose of the organization and not used in carrying on a private or proprietary function.

The sales of textbooks and supplies by a parochial, public, or private not-for-profit school is exempt if made to students of the school in grades one through twelve. Such sales are primarily intended to further the educational purposes of the school.

Sales by a bookstore of non-related items such as T-shirts, sweatshirts, hats, memorabilia, class rings, license plates, etc. **are** subject to tax and the bookstore must register as a retail merchant to purchase these items exempt for resale and collect the tax from the ultimate purchaser. Sales to persons that are not students or school personnel are subject to the sales tax.

Purchases by Teachers

Tangible personal property purchased by teachers for use in their classrooms are subject to sales/use tax. This is true even though the teacher may use the funds allotted to teachers to purchase classroom supplies. In order to be exempt from sales tax the purchase must be invoiced directly to the school corporation and paid with a school check.



Kenneth L. Miller
Commissioner